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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,272	04/15/2004	Lise King	KING-5 (CIP)	7915
25889	7590	06/02/2005		
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			EXAMINER VALENTI, ANDREA M	
			ART UNIT	PAPER NUMBER
			3643	
DATE MAILED: 06/02/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/825,272

Applicant(s)

KING, LISE

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,335,618 to Zarola in view of U.S. Patent No. 2,538,778 to Halpin and U.S. Patent No. 1,561,658 to Mosier.

Regarding Claims 1 and 20, Zarola teaches an enclosure frame forming a bottom section of said enclosure (Zarola #13 and #72) formed of fabric (Zarola Col. 3 line 30-32), an outer section (Zarola #14) of said enclosure, and a plurality of end sections (Zarola #20 and 22) of said enclosure, an animal (Zarola Col. 3 line 41-43) enclosure comprising semicircular hoop portions and cross bars (Zarola #30 and 72); flexible netting (Zarola Col. 4 line 37) material; at least one door (Zarola #23); and a handle (Zarola #31 and 32); a fabric cover covering one half of the length of the enclosure (Zarola Fig. 2 teaches the fabric cover covering at least one half of the length and Zarola is adjustable so at times it inherently will be covering half of the length), the fabric cover being mounted over at least two frame components (Zarola #Fig. 2 #28).

Zarola is silent on a padded material covering the bottom section of said enclosure. However, Halpin teaches a semicircular traveling animal enclosure with a padding material covering the bottom (Halpin Fig. 3 #53). It would have been obvious

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to one of ordinary skill in the art to modify the teachings of Zarola with the teachings of Halpin at the time of the invention for the added soft comfort for the animal.

Zarola as modified teaches that the enclosure is used for traveling, but is silent on a frame and wherein the enclosure is mounted in the frame by placing the enclosure on the tray. However, Mosier teaches a stroller comprising (Mosier page 1 Line 86-69): a frame comprising (Mosier Fig.1); a bottom section (Mosier #1, 2, 3, 4), a tray (Mosier #7) directly disposed on said bottom section, a handle (Mosier #12) disposed on said frame, a plurality of wheels rotatably secured to said frame (Mosier #5). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Zarola with the teachings of Mosier at the time of the invention for the advantage of an ergonomic means of transporting the enclosure with ease while traveling to reduce labor requirements as taught by Mosier (Mosier page 1 line 90-94).

Regarding Claims 2, 3, and 4, Zarola as modified teaches a collapsible frame (Mosier inherently could be disassembled) comprises a plurality of side rails (Mosier #6) secured to said bottom section and a plurality of rear rails (Mosier #10) of tubing secured to said bottom section. Mosier is silent on metal, however it would have been obvious to one of ordinary skill in the art to modify the teachings of Mosier at the time of the invention since the modification is merely the selection of an old and notoriously well-known tubing material selected for intended use to meet certain manufacturing design cost parameters and for durability.

Regarding Claim 5, Zarola as modified teaches said flexible material is secured to said enclosure frame with adhesive, rivets or binding (Zarola Col. 4 line 33).

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Regarding Claim 6, Zarola as modified teaches netting material (Zarola Col. 4 line 37), but does not explicitly teach fish netting. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Zarola at the time of the invention since the modification is merely the selection of a known form of netting selected as an engineering design choice to meet certain design parameters such as cost.

Regarding Claim 7, Zarola as modified teaches said netting material is secured to said enclosure frame by rope or string which is wrapped through a hole in said netting material and around said enclosure frame (Zarola Col. 4 line 33).

Regarding Claim 8, Zarola as modified teaches a durable, water resistant material disposed on a portion of said outer section of said enclosure (Zarola Col. 3 line 44).

Regarding Claim 9, Zarola as modified teaches the durable water resistant material covers one of the end section of the enclosure (Zarola Fig. 1 #16).

Regarding Claim 10, Zarola as modified teaches a window cut in the end section that contains the water resistant material (Zarola Fig. 1 #35).

Regarding Claim 11, Zarola as modified teach a pocket located in said end section containing the water resistant material (Zarola Col. 1 line 51).

Regarding Claims 12 and 13, Zarola as modified inherently teaches that said durable water-resistant material disposed on a portion of said outer section of said enclosure covers approximately one half of the length of said enclosure (Zarola Fig. 1 #16 and #44 and since the enclosure can expand and contract to different sizes).

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Regarding Claim 14, Zarola as modified does not explicitly teach that each of said plurality of wheels is comprised of rubber. However, it would have been obvious to one of ordinary skill in the art to further modify the teachings of Zarola as modified by Mosier at the time of the invention since the modification is merely the selection of a known material for intended use. It is old and notoriously well-known to use rubber tires, e.g. automobiles etc, selected for its durability and traction.

Regarding Claim 15, Zarola as modified does not explicitly teach that the wheels are removable. However, merely making something separable is an obvious modification for one of ordinary skill in the art and does not present a patentably distinct limitation. It would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention for the advantage of efficient storage [*In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961)].

Regarding Claim 16, Zarola as modified teaches the plurality of wheels comprises four wheels (Mosier Fig. 1 ad 2 #5).

Regarding Claim 18, Zarola as modified teaches the enclosure frame is constructed from a strong weather-proof material selected from the group consisting of aluminum, steel and heavy plastic (Zarola Col. 3 line 50).

Regarding Claim 19, Zarola as modified teaches the door is releasably secured to at least one of said plurality of end sections of said enclosure by a zipper (Zarola #23 and Col. 2 line 25).

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Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,335,618 to Zarola in view of U.S. Patent No. 2,538,778 to Halpin and U.S. Patent No. 1,561,658 to Mosier as applied to claim 1 above, and further in view of U.S. Patent No. 5,876,057 to Huang.

Regarding Claim 17, Leader as modified is silent on a brake to stop rotation of said plurality of wheels. However, Huang teaches a stroller with the illustration of a brake on the back rear wheel (Huang Fig. 1 back wheel on right side). It is old and notoriously well-known in the art of strollers to provide brakes in the instance a foot brake on the wheels of the stroller to prevent the stroller from rolling away when unattended. It would have been obvious to one of ordinary skill in the art to modify the teachings of Leader with the teachings of Huang at the time of the invention to prevent undesired displacement.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,335,618 to Zarola in view of U.S. Patent No. 2,538,778 to Halpin and U.S. Patent No. 1,561,658 to Mosier as applied to claim 1 above, and further in view of U.S. Patent No. 6,584,937 to Ludolph.

Regarding Claim 20, Zarola as modified teaches an enclosure that is covered partly in fabric and partly in netting. For purpose of argument, it could also be viewed that Zarola does not explicitly teach that the fabric covers one half of the length of the enclosure. However, Ludolph teaches that it is well-known to provide half of a moving animal enclosure with a fabric and the other half with netting. It would have been

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obvious to one of ordinary skill in the art to further modify the teachings of Zarola with the teachings of Ludolph at the time of the invention since the modification is merely the change in size (i.e. length) to provide adequate protection for different size animals from sun and rain (Ludolph Col. 3 line 60)

Claims 1-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,113,793 to Leader in view of U.S. Patent No. 5,113,793 to Halpin and U.S. Patent No. 5,335,618 to Zarola.

Regarding Claims 1 and 20, Leader teaches a pet stroller comprising (Leader Fig. 1): a frame comprising; a bottom section (Leader elements #6), a tray disposed directly on said bottom section (Leader #19), a handle disposed on said frame (Leader #3), a plurality of wheels rotatably secured to said frame (Leader #10 and 8); and an enclosure comprising (Leader #2): at least one door releasably secured to at least one of said plurality of end sections of said enclosure (Leader #17); an enclosure frame forming a bottom section of said enclosure, an outer section of said enclosure, and a plurality of end sections of said enclosure, wherein the enclosure is mounted in the frame by placing the enclosure on the tray (Leader Fig. 1).

Leader is silent on a padded material covering the bottom section of said enclosure (Leader teaches the bottom of the enclosure "**could be solid**" Col. 3 line 15 thus lending to the capability of placing padding in the enclosure). However, Halpin teaches a semicircular traveling animal enclosure with a padding material covering the bottom (Halpin Fig. 3 #53). It would have been obvious to one of ordinary skill in the art

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to modify the teachings of Leader with the teachings of Halpin at the time of the invention for the added soft comfort for the animal.

Leader as modified teaches placing a removable enclosure on the tray and that the enclosure can be partly covered with a fabric or partly exposed for the viewing pleasure of the animal, but is silent on the enclosure frame comprising a plurality of semicircular hoop portions and a plurality of crossbars; a flexible netting material secured to the enclosure frame outer section of said enclosure; and a handle mounted to said enclosure for carrying said enclosure. However, an animal (Zarola Col. 3 line 41-43) enclosure comprising semicircular hoop portions and cross bars (Zarola #30 and 72); flexible netting (Zarola Col. 4 line 37) material; at least one door (Zarola #23); and a handle (Zarola #31 and 32); a fabric cover covering one half of the length of the enclosure (Zarola Fig. 2 teaches the fabric cover covering at least one half of the length and Zarola is adjustable so at times it inherently will be covering half of the length), the fabric cover being mounted over at least two frame components (Zarola Fig. 2 #28). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Leader with the teachings of Zarola the time of the invention since the modification is merely the selection of an alternate pet traveling enclosure selected for its ability to expand and collapse.

Regarding Claims 2 and 3, Leader as modified teaches said frame comprises a plurality of side rails secured to said bottom section and a plurality of rear rails of metal tubing secured to said bottom section (Leader #12 and 9).

Regarding Claim 4, Leader as modified teaches the frame is collapsible (Leader Col. 4 line 7).

Regarding Claim 5, Leader as modified teaches said flexible material is secured to said enclosure frame with adhesive, rivets or binding (Zarola Col. 4 line 33).

Regarding Claim 6, Leader as modified teaches netting material (Zarola Col. 4 line 37), but does not explicitly teach fish netting. However, it would have been obvious to one of ordinary skill in the art to modify the teachings of Zarola at the time of the invention since the modification is merely the selection of a known form of netting selected as an engineering design choice to meet certain design parameters such as cost.

Regarding Claim 7, Leader as modified teaches said netting material is secured to said enclosure frame by rope or string which is wrapped through a hole in said netting material and around said enclosure frame (Zarola Col. 4 line 33).

Regarding Claim 8, Leader as modified teaches a durable, water resistant material disposed on a portion of said outer section of said enclosure (Zarola Col. 3 line 44).

Regarding Claim 9, Leader as modified teaches the durable water resistant material covers one of the end section of the enclosure (Zarola Fig. 1 #16).

Regarding Claim 10, Leader as modified teaches a window cut in the end section that contains the water resistant material (Zarola Fig. 1 #35).

Regarding Claim 11, Leader as modified teach a pocket located in said end section containing the water resistant material (Zarola Col. 1 line 51).

Regarding Claims 12 and 13, Leader as modified inherently teaches that said durable water-resistant material disposed on a portion of said outer section of said enclosure covers approximately one half of the length of said enclosure (Zarola Fig. 1 #16 and #44 and since the enclosure can expand and contract to different sizes).

Regarding Claim 14, Leader as modified does not explicitly teach that each of said plurality of wheels is comprised of rubber. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely the selection of a known material for intended use. It is old and notoriously well-known to use rubber tires, e.g. automobiles etc, selected for its durability and traction.

Regarding Claim 15, Leader as modified does not explicitly teach that the wheels are removable. However, merely making something separable is an obvious modification for one of ordinary skill in the art and does not present a patentably distinct limitation. It would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention for the advantage of efficient storage [*In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961)].

Regarding Claim 16, Leader as modified teaches the plurality of wheels comprises four wheels (Leader #11, 10, 7, 8).

Regarding Claim 18, Leader as modified teaches the enclosure frame is constructed from a strong weather-proof material selected from the group consisting of aluminum, steel and heavy plastic (Zarola Col. 3 line 50).

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Regarding Claim 19, Leader as modified teaches the door is releasably secured to at least one of said plurality of end sections of said enclosure by a zipper (Zarola #23 and Col. 2 line 25).

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,113,793 to Leader in view of U.S. Patent No. 2,538,778 to Halpin and U.S. Patent No. 5,335,618 to Zarola as applied to claim 1 above, and further in view of U.S. Patent No. 6,584,937 to Ludolph.

Regarding Claim 20, Leader as modified teaches providing a grid pattern (i.e. the bars of the cage which are similar to the grid pattern of netting just a different mesh size) to enable the animal to see but to prevent it from getting out of the enclosure. Leader also teaches covering a portion of the grid pattern with a fabric to provide the animal with some shelter (Leader #2). Leader as modified by Zarola teaches an arched enclosure that is covered partly in fabric and partly in netting. For purpose of argument, it could also be viewed that Leader as modified by Zarola does not explicitly teach that the fabric covers one half of the length of the enclosure. However, Ludolph teaches that it is well-known to provide half of a moving animal enclosure with a fabric and the other half with netting. It would have been obvious to one of ordinary skill in the art to further modify the teachings of Zarola with the teachings of Ludolph at the time of the invention since the modification is merely the change in size (i.e. length) to provide adequate protection for different size animals from sun and rain (Ludolph Col. 3 line 60).

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,113,793 to Leader et al in view of U.S. Patent No. 5,335,618 to Halpin and U.S. Patent No. 5,335,618 to Zarola as applied to claim 1 above, and further in view of U.S. Patent No. 5,876,057 to Huang.

Regarding Claim 17, Leader as modified is silent on a brake to stop rotation of said plurality of wheels. However, Huang teaches a stroller with the illustration of a brake on the back rear wheel (Huang Fig. 1 back wheel on right side). It is old and notoriously well-known in the art of strollers to provide brakes in the instance a foot brake on the wheels of the stroller to prevent the stroller from rolling away when unattended. It would have been obvious to one of ordinary skill in the art to modify the teachings of Leader with the teachings of Huang at the time of the invention to prevent undesired displacement.

Response to Arguments

Applicant's arguments filed 23 March 2005 have been fully considered but they are not persuasive.

Applicant has not claimed the pet or that the pet is located inside the enclosure when the enclosure is located on the frame. Since this has not been claimed the claim language could read on any luggage cart or stroller or hand-cart with a collapsed enclosure or any bag that has netting on it or any piece of luggage with netting. Zarola teaches transporting animals in the enclosure (Zarola Col. 3 line 41-43), but since applicant doesn't claim the animal one of ordinary skill in the art could transport the enclosure of Zarola when Zarola is in a collapsed state on almost any cart and still meet

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the limitations of the claims. Also, pet stroller does not clearly mean that the pet is riding in the stroller. The Pet could be pushing the stroller or pulling the stroller or the stroller could be for carrying items that belong to the pet.

As discussed in the phone interview, the examiner suggest additional structural limitations be placed in the independent claims such as, the netting cover the entire length of the enclosure with fabric over half of the netting; that there are two handles on the enclosure one running the length of the exposed netting and the other running the length of the fabric from one arched support to another arched support; the frame has rear vertical members that intersect with a pair of arched side members; that the tray/bottom is in the same horizontal plane as the wheels.

Examiner maintains that applicant has not patentably distinguished over the teachings of the cited prior art of record.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

24 May 2005



Andrea M. Valenti
Patent Examiner
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Peter M. Poon
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